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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

CALIFORNIA DEPARTMENT OF STATE HOSPITALS, Plaintiff and Respondent, v. SEAN GREENSHIELDS, Defendant and Appellant.	2d Crim. No. B290423 (Super. Ct. No. 14MH-0085) (San Luis Obispo County)

Sean Greenshields appeals an order that he "be involuntarily administered antipsychotic medication" by the Department of State Hospitals (Department) for a period of one year. We conclude, among other things, that substantial evidence supports the trial court's order. We affirm.

FACTS

Greenshields is being treated by the Department. In 2014, we held Greenshields was entitled to a hearing to challenge the involuntary administration of antipsychotic medications by the Department's doctors. (*In re Greenshields* (2014) 227 Cal.App.4th

1284, 1293.) In that opinion, we said, "Greenshields suffers from paranoid schizophrenia. In 1993, a jury found him not guilty of attempted murder by reason of insanity. ([Pen. Code,] § 1026.) The superior court committed him to a state hospital for a term of years, with a maximum commitment date of July 2, 2012. In 2012, the court extended that commitment pursuant to [Penal Code] section 1026.5." (*Id*. at pp. 1287-1288, fn. omitted.) There have been additional extensions. The Department has been treating Greenshields with antipsychotic medications. Greenshields opposes the administration of these medications.

On June 9, 2017, the Department filed a petition for renewal of an order to compel involuntary treatment with antipsychotic medication. It alleged, among other things, that Greenshields was "incompetent or incapable of making decisions about his medical treatment." The Department said he is "unable to appreciate the risks and benefits associated with accepting and rejecting treatment."

The trial court appointed counsel for Greenshields. After granting several continuances, the court set the case for hearing on May 18, 2018.

At trial, Doctor Mark Daigele, a psychiatrist, testified about Greenshields's medical condition. He said Greenshields is "not able to rationally" consider the "risks and benefits" of his medication and is "not competent" to refuse to take his medications. Greenshields testified about why he opposed the proposed medication order.

The trial court granted the Department's petition finding Greenshields "[l]acks capacity to refuse treatment."

DISCUSSION

Substantial Evidence

Greenshields contends the order must be reversed because there is insufficient evidence "to establish [he] lacked capacity to make treatment decisions." (Boldface omitted.) We disagree.

Most of the testimony at the hearing has been sealed and is not available for public disclosure or discussion. The parties have filed redacted briefs. But we have reviewed the entire transcript of that proceeding to determine whether there is substantial evidence to support the trial court's finding.

In deciding the sufficiency of the evidence, we draw all reasonable inferences in support of the judgment. We do not weigh the evidence, resolve evidentiary conflicts, or determine the credibility of the witnesses. (*People v. Yeoman* (2003) 31 Cal.4th 93, 128.)

Competent adults have the right to refuse necessary medical treatment. (*In re Qawi* (2004) 32 Cal.4th 1, 14.) But that right may be limited by state interests such as the need to care for persons unable to care for themselves and institutional security. (*Id.* at pp. 15-16.)

The judgment that Greenshields was not guilty by reason of insanity "is not a determination that [he] is incompetent to refuse treatment." (*In re Greenshields*, *supra*, 227 Cal.App.4th at p. 1290.) Greenshields has the right "to refuse antipsychotic medication in nonemergency situations unless a court determines" that he "(1) is incompetent to refuse the treatment or (2) has been recently dangerous . . . ." (*Ibid.*) Here the trial court found Greenshields "[l]acks capacity to refuse treatment." Important factors in determining whether a patient is competent to consent to drug treatment include whether he or she "is aware

of his or her situation" and is "able to understand the benefits and the risks of, as well as the alternatives to, the proposed intervention." (*Riese v. St. Mary's Hospital & Medical Center* (1987) 209 Cal.App.3d 1303, 1322.)

Greenshields claims his testimony shows his concerns about his medical conditions and medications were "rational." But the trial court decides the credibility of that testimony. Moreover, the issue is not whether some evidence supports appellant. On appeal it is whether from the entire record there is substantial evidence to support the judgment. The trial court's findings were supported by Doctor Daigele's testimony that Greenshields was not competent to make decisions regarding his medications.

Greenshields claims his own testimony should have been given greater weight and Daigele's testimony should have been given little or no weight. But this challenge to the trial court's assessment of witness credibility and the weight of the evidence does not prevail. Only the trier of fact decides credibility and we do not weigh the evidence. (*People v. Yeoman*, *supra*, 31 Cal.4th at p. 128.)

Greenshields suggests the trial court should have found Daigele was not able to properly evaluate his (Greenshields's) ability to rationally assess and manage his need for medications. But at the beginning of trial, Greenshields stipulated that Daigele was an expert in psychiatry, who had testified "numerous times before," and was qualified to testify about him. Daigele was familiar with Greenshields's medical conditions and history because he had been Greenshields's "treating psychiatrist" in 2015 and 2016. He had reviewed the medical records and had conferred with "several" of Greenshields's "prior treating

psychiatrists" and his current psychiatrist. He knew what Greenshields claimed about medications. He also knew how his history of mental disorders would impact or impede his ability to rationally make decisions about his medications. Greenshields did not call a medical expert to testify to support his claims or to challenge Daigele's assessments.

Greenshields cites a report by the United States Department of Justice, which was critical of Atascadero State Hospital's assessment and use of medications for its patients. He claims it bolsters his trial testimony. But this report is not part of the record. Greenshields obtained it from the Internet and it involves hospital conditions in 2006. He has not shown how a 13-year-old report is currently relevant. Nor has he shown how this report involves any of the doctors who are currently treating him.

Greenshields cites *Conservatorship of Waltz* (1986) 180 Cal.App.3d 722 and claims "[a] disagreement between the patient and the doctor as to the efficacy of treatment does not constitute substantial evidence to support a finding of incompetence to make treatment decisions." The Department does not disagree with that proposition, but it correctly notes *Waltz* "is unavailing." There the Court of Appeal said, "There is no evidence Waltz does not understand, and cannot knowingly and intelligently act" with respect to a medical decision to subject him to electric shock treatment. (*Id.* at p. 732.)

Here, by contrast, the evidence shows Greenshields lacks the capacity to make decisions about administering the medications. From our review of the record, we conclude Daigele's testimony supports the trial court's finding.

Incorrect Statements in the Written Order

Greenshields contends the order must be reversed because it contains some incorrect statements. We disagree.

For its written order, the trial court used a two-page form that contains boxes for the court to check. The court checked the box stating Greenshields "[l]acks capacity to refuse treatment." That is consistent with the oral findings it made at the evidentiary hearing.

But the written order also contains language that is not correct. The trial court said, "Counsel for both parties have agreed to submit this matter based on the documents filed. Having read the petition, and there being no opposition, the court finds . . . ." The parties agree that this language does not apply here because there was a contested evidentiary hearing. As the Department notes, the trial court retains the power to eliminate this language from its order. (*Ames v. Paley* (2001) 89 Cal.App.4th 668, 674.) But the result will not change because the order contains the relevant finding to support the involuntary medication order.

DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED.

GILBERT, P. J.

We concur:

YEGAN, J.

PERREN, J.

Jesse J. Marino, Judge

Superior Court County of San Luis Obispo

Julia Freis, under appointment by the Court of Appeal, for Defendant and Appellant.

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